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By: \_\_\_\_\_ Date: \_\_\_\_\_

**MAIL STOP AMENDMENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Patent Application of: :  
Ruey J. Yu *et al.* :  
Conf. No.: 2318 : Group Art Unit: 1617  
Appln. No.: 10/817,479 : Examiner: Deirdre Renee Claytor  
Filing Date: April 2, 2004 : Attorney Docket No.: 8976-227U1  
Title: TOPICAL TREATMENT OF DERMATOLOGICAL DISORDERS  
ASSOCIATED WITH REACTIVE OR DILATED BLOOD VESSELS

**RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES**

This Response relates to the Office Action mailed July 27, 2006 (Paper No. 20060718), concerning the above-identified application. This response is being timely submitted by within the current one-month deadline of August 28, 2006, August 27 being a Sunday.

The outstanding Office Action relates only to requirements for election of species. The Examiner identified the following species of the claimed invention, which the Examiner concluded were patentably distinct species, and required election of an example within each of them:

Species 1. A compound selected from the sub-genus of a polyhydroxy-aldonic acid, a polyhydroxy-aldonic lactone, a polyhydroxy-alduronic acid, a polyhydroxy-alduronic lactone, a polyhydroxy-aldaric acid, and a polyhydroxy-aldaric lactone.

Species 2. An organic acid lactone.

Species 3. A topical agent.

Species 4. A dermatological disorder.

The Examiner identified claims 1-34, namely, all of the pending claims in the application, as being generic claims. In view of the presence of a number of generic claims, if no generic claim is finally held to be allowable, Applicants respectfully submit that they are entitled to a reasonable number of species within each of the above-identified categories of species pursuant to 37 C.F.R. § 1.146. Nevertheless, Applicants understand that the Examiner is seeking, at least for purposes of searching, an identification of one member of each of the above-identified categories of species.

Applicants hereby provisionally elect for search purposes during the prosecution of this application the following members of the indicated categories of species:

Species 1 – polyhydroxy-aldonic lactone, such as gluconolactone.

Species 2 – The Examiner has indicated that an organic acid lactone is considered a separate species. However, upon review of the claims of this application, including claim 1, where the term "organic acid lactone" is used, it is noted that the term "organic acid lactone" is only part of the following phrase: "organic acid lactone having two or more hydroxyl or ketohydroxyl groups." As such, the quoted term in its entirety is meant to include not only the species within subgeneric claim 1 as identified in the Office Action and reproduced above, but also any other organic acid lactones with two or more hydroxyl or ketohydroxyl groups which may not come within the other members of the subgenus within claim 1. Therefore, it is believed that identifying an organic lactone as a separate species is apparently based on a mistaken understanding of the complete term.

Nevertheless, for search purposes in this application, Applicants hereby provisionally elect the same member as elected within Species category 1, namely, a polyhydroxy-aldonic lactone, such as gluconolactone, which is an organic acid lactone having two or more hydroxyl or ketohydroxyl groups.

Species 3 – an antiacne agent, such as benzoyl peroxide.

Species 4 – rosacea.

Applicants believe that the elected species are covered in all generic claims. More particularly, polyhydroxy-aldonic lactone, such as gluconolactone of Species 1 and 2 is covered generically in claims 1-6 and 22-27. More specifically, a polyhydroxy-aldonic lactone, such as gluconolactone, is also covered by subgeneric claims 9 and 30.

The antiacne agent, such as benzoyl peroxide, is covered by subgeneric claims 1-21, and 28-34. More specifically, an antiacne agent is covered by subgeneric claim 22, as well as by claim 25, which specifically recites benzoyl peroxide. Claim 26 also covers various antiacne agents.

Rosacea is covered generically or subgenerically in claims 1, 2, and 7-34. Rosacea is more specifically covered in subgeneric claim 4.

An early examination and allowance of all claims are respectfully solicited.

Respectfully submitted,

**RUEY J. YU et al.**

August 28, 2006  
(Date)

By:

  
**ALAN S. NADEL**

Registration No. 27,363

**AKIN GUMP STRAUSS HAUER & FELD LLP**

One Commerce Square

2005 Market Street, Suite 2200

Philadelphia, PA 19103-7013

Telephone: 215-965-1200

**Direct Dial: 215-965-1280**

Facsimile: 215-965-1210

E-Mail: [anadel@akingump.com](mailto:anadel@akingump.com)

ASN:hg